The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FREDERIC BORDEAUX and VOLKAR OFFERMANN

Appeal No. 2005-0370
Application No. 09/622,044

HEARD: April 21, 2005

Before KIMLIN, WARREN and PAWLIKOWSKI, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 12, 15-22 and 26-29, the only claims remaining in the present application. Claim 12 is illustrative:

12. A method of making a anti-laceration automobile side window glazing comprising adhering two sheets of glass adapted to fit an automobile side window with an intercalary adhesive layer, wherein

said intercalary adhesive layer has a thickness of more than 0.76 mm;

each of said two sheets of glass has a thickness of from 1.5 to 3 mm; and

each of said two sheets of glass has a core compressive stress in the central zone ranging from 20 to 50 MPa; and

said glazing, in a non-intact and bent state, has a Triplex Laceration Index of 7 or less.

The examiner relies upon the following references as evidence of obviousness:

Rieser et al. (Rieser)	3,558,415	Jan. 26, 1971
Fukawa et al. (Fukawa)	4,910,074	Mar. 20, 1990
Kramling et al. (Kramling)	5,397,647	Mar. 14, 1995

Appellants' claimed invention is directed to a method of making side window glazing for an automobile that has anti-laceration characteristics. The method entails utilizing an intercalary adhesive layer for bonding two sheets of glass having a thickness in the range of 1.5 to 3 mm. The adhesive layer has a thickness greater than 0.76 mm. In addition, the glass sheets have a core compressive stress in the central zone ranging from 20 to 50 MPa. Also, the window glazing has the recited Triplex Laceration Index (TLI) in a non-intact and bent state. According to the present specification, "the inventors became aware that the increase in the thickness in the intercalary adhesive has the effect of reducing the extent of the laceration phenomenon" (sentence bridging pages 2 and 3).

Appealed claims 12, 15-19, 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rieser in view of Kramling, or Kramling in view of Rieser. Claims 20-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the

stated combination of references further in view of the admitted prior art, whereas claims 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated combination of references further in view of Fukawa.

In accordance with the grouping of claims set forth at page 4 of the principal brief, claims 12, 15-19 and 28-29 stand or fall together. Also, claims 20-22 stand or fall together, as do claims 26 and 27.

We have thoroughly reviewed each of appellants' arguments for patentability, as well as the evidence of unexpected results relied upon in support thereof. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections for essentially those reasons expressed in the Answer, and we add the following primarily for emphasis.

Rieser, like appellants, discloses a method of making automobile window glazing comprising two glass sheets of the claimed thickness bonded by a intercalary adhesive layer having a thickness of more than 0.76 mm. Rieser expressly discloses that "[i]f the interlayer material is plasticized polyvinyl buytral having a

thickness of .030 inch to .060 inch [0.76-1.52 mm], its yield on impact is considerably better than that of an interlayer of the type previously used commercially having a thickness of .015 inch" (column 5, lines 59-63). Rieser further teaches that an adhesive interlayer having a thickness greater than the presently claimed 0.76 mm "produces a windshield of optimum safety when both glass sheets are chemically tempered to provide compressive stress zones of the thickness ranges indicated" (column 5, lines 65-70). Accordingly, based on the reference disclosure, we find that it would have been obvious for one of ordinary skill in the art to make a window glazing for an auto-mobile comprising a laminate of an adhesive layer bonding two glass sheets wherein the adhesive layer and the glass sheets have thicknesses within the claimed ranges. While Rieser does not specifically state that the automobile window glazing is for a side window, we are satisfied that one of ordinary skill in the art would have understood that the reference disclosure of "laminated safety glass windows, particularly those used for vehicles" (column 1, lines 25-26) is applicable to side windows as well as the windshield of an automobile. In any event, as set forth by the examiner, Kramling evidences that it was known in the art to utilize such three-layer laminates for the side windows of an automobile.

We are not persuaded, as urged by appellants, that Kramling's disclosure of a typical laminate of 2/0.76/2 mm is a "teaching away" from using an adhesive layer having a thickness of greater than 0.76 mm for a side window. Rather, we concur with the examiner that the noted ratio of thicknesses is simply a typical example provided by Kramling. Since Kramling teaches that the total thickness of the laminate is typically 4.76 mm, it logically follows that the ratio can be, for instance, 1.8/0.80/ 1.8. Moreover, we find that Rieser provides the requisite teaching that the inner adhesive layer of the laminate should be greater than 0.76 mm to provide a window of optimum safety.

As for the claimed core compressive stress in the central zone, we agree with the examiner that Kramling teaches that such a core compressive stress in the central zone of the laminate results in safer large splinters that remain glued upon impact.

Concerning the claimed TLI of 7 or less, the silence of Rieser and Kramling regarding this property characteristic does not negate the obviousness of the claimed method. As explained by the examiner and acknowledged by appellants, the TLI was a known parameter for measuring the safety of vehicular glass windows, and we are confident that one of ordinary skill in the art, following the teachings of Rieser and Kramling, would have

achieved the claimed TLI with routine experimentation. Appellants contend that "[t]he fact that the TLI is influenced by the thickness of the interlayer was only discovered by the present inventors and not by Kramling or Rieser" (page 7 of principal brief, last paragraph). However, Rieser provides a clear teaching that adhesive interlayers having a thickness more than the presently claimed 0.76 mm provide greater safety.

Appellants also maintain that "any *prima facie* case of obviousness based on the cited prior art is rebutted by the significant reduction in injuries that result when a person strikes the claimed glazing, which 'in a non-intact and bent state, has a Triplex Laceration Index of 7 or less'" (page 8 of principal brief, first paragraph). However, appellants have not established that the results depicted in Figure 1 of the present specification would be considered truly unexpected by one of ordinary skill in the art, particularly in light of the teachings of Rieser and Kramling. In re Merck & Co., 800 F.2d 1091, 1099, 231 USPQ 375, 381 (Fed. Cir. 1986). Furthermore, appellants have not demonstrated that the limited specification data is commensurate in scope with the degree of protection sought by the appealed claims. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 778 (Fed. Cir. 1983). It is our view that the substantial

evidence of obviousness presented by the examiner outweighs the evidence of nonobviousness relied upon by appellants.

Appellants' arguments regarding separately rejected claims 20-22 and 26-27 are directed solely to the asserted deficiencies of Rieser and Kramling discussed above.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective Sep. 13, 2004; 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sep. 7, 2004)).

AFFIRMED

EDWARD C. KIMLIN)
Administrative Patent Judge)
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CHARLES F. WARREN) BOARD OF PATENT
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